

# THE BAR ASSOCIATION BULLETIN

MONTHLY PUBLICATION OF THE

LOS ANGELES BAR ASSOCIATION, Los Angeles, California

Vol. 1. No. 4

DECEMBER, 1925

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## JUDICIAL SELECTION

Editor Bar Association Bulletin,  
Dear Sir:—

You have asked for a review of the activities of the Los Angeles Bar Association in connection with the election of judges.

As this is a topic which is, or should always be, of interest to lawyers I will submit as briefly as possible the history of the activities of the association, and the results.

In 1920 at the earnest solicitation of several members of the Bar, President Meserve and the Board of Trustees authorized the taking of a vote of all practicing attorneys in the County upon four propositions, which were framed as follows:

1. "Is it your desire to return all of the ten incumbent Superior Court judges to the Bench at the coming election?"

2. "The following is an alphabetically arranged list of the ten judges who are candidates for re-election. Please indicate by placing a numeral before each name the order of your preference."

3. "If you answer the first Interrogatory 'No' how many in number of the above incumbents should not be re-elected."

4. "If you answer the first interrogatory 'No' whom of recognized ability do you consider, (that is provided they can be induced to run for said office) to take the places of the number of judges you have indicated

should not be returned to the Bench."

Approximately 1856 ballots were mailed and 1003 were returned. Several were thrown out, leaving a total of 990 valid ballots which were counted. One hundred and twelve votes were cast in favor of retaining all of the incumbent judges, and eight hundred and seventy-four against. On the second proposition the votes in favor of the respective incumbents ranged from 792 who favored the re-election of Judge Myers to 250 in favor of the election of one of the other incumbents. Among the names suggested for candidates were C. S. Burnell, Frank C. Collier, J. L. Fleming, Walter Hanby Hartley Shaw, J. W. Summerfield, Ira F. Thompson and Walton J. Wood, each of whom has since been elected or appointed to the Superior Bench.

No effect was made by the association to conduct any campaign in favor of candidates at the 1920 election, but publicly was given to the result of the ballot and a separate organization induced four candidates to stand for election in opposition to the four incumbents who received less than a majority of the votes cast and counted on proposition number Two and an active campaign was made by that organization in favor of those candidates, to gether with the six incumbent judges who received a majority vote in the plebiscite. Two incumbent judges, among the four, were defeated and two of the outside candidates endorsed by such organization were elected in

their stead. Just what weight, if any, should be given in the final election to the publication of the result of the ballot is a matter of conjecture, but there can be no doubt that the active campaign carried on for candidates endorsed by the organization of lawyers and layman which undertook to make the campaign was decisive.

In 1921 the Governor of California was called upon to make three appointments to the Superior Bench and to assist him in making his choice he asked the Los Angeles Bar Association to conduct a plebiscite among all members of the bar practicing in the County. The Governor asked that the votes be taken separately and a list of 32 aspirants for the office residing in the City of Los Angeles and a list of 25 residing outside of the City were placed upon the ballot. Two thousand and eighty-five ballots were mailed out and fourteen hundred and forty-nine on the City list and fourteen hundred thirty-six on the County list were received and counted. None of the candidates received a majority vote on the first ballot so a second ballot was taken, the eight highest on each list being re-submitted to the voters, the lawyers being asked to vote for four candidates on each list. As a result of the second ballot the names of Thomas O. Toland J. Walter Hanby, Ruben S. Schmidt and Ira F. Thompson from the city list and of Hartley Shaw, Edwin F. Hahn, Vic-

(Continued on page 3)

## REMEMBER DINNER MEETING OF THE ASSOCIATION

in honor of the

### PRESIDENT AND THE EXECUTIVE COMMITTEE, AMERICAN BAR ASSOCIATION

BILTMORE HOTEL—WEDNESDAY, JANUARY 6th,—7:30 P. M.

A Program of Brilliant Addresses by

CHESTER I. LONG

President American Bar Association

Ex-Governor CHARLES S. WHITMAN of New York

Senator F. DUMONT SMITH of Kansas

Also Entertaining Musical Program

Dinner: \$3.50 per plate

Dress: Formal—Tuxedos Preferably

Guests of Members are Welcome

## THE BAR ASSOCIATION BULLETIN

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ASSOCIATION

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### A VALUABLE LETTER

824 Van Nuys Bldg.,  
Los Angeles, Calif.  
December 19, 1925.

Editor,  
Bar Association Bulletin,  
Los Angeles, Calif.

Dear Sir:

Mr. Aggeler's views upon criminal law expressed in your last issue contain very much in which I agree.

After a long experience at the Bar of England in practical work, I can assure you that the Substantive law there is much the same as it is in California, but the actual practice is widely different. For example, in challenges of jurors the English law gives rights to the prosecution and the accused similar to those prevailing in California. Even more causes for challenge exist on paper. But these rights are very rarely exercised. The reason for this is first—a strong Bench which controls counsel and assists the jury second—thoroughly experienced trial lawyers conduct criminal cases both for the prosecution and the defense; third—all the jurors come from much the same class and possess similar inherited points of view upon any given facts; fourth—a well informed public opinion which exercises the supreme controlling influence upon the Bench, the Bar and the jury.

It would be interesting to know how far the actual practice of the criminal law in California differs from the strict letter of the Substantive law. Also, how far judicial decision has altered this practice of the law.

Yours very truly,  
A. MORESBY WHITE.

## PLEBISCITES

Elsewhere in this issue appears the results of the two plebiscites recently taken by the Los Angeles Bar Association with reference to candidates for appointment to the newly-created Municipal Court Judgeships. Also, an excellent resume of the plebiscites which the Association has heretofore taken from time to time. We shall attempt a brief and simple statement of the aims and purposes of the Association in its activity along this line.

Article XIII of our Constitution provides:

"The Association may from time to time make recommendation of candidates for judicial positions."

Section VIII, sub-section 3, of our By-Laws charges the Committee on the Judiciary with the responsibility of administering the above provision of the Constitution; it also provides:

"No candidate shall be endorsed for office except by a majority of all the votes cast, in the taking of which, the entire membership be given an opportunity to vote."

And, finally, Article II, Section 2 of the Constitution provides that the Association:

"Shall not take any part in partisan politics nor recommend any person for any political office other than a judicial office."

Manifestly, the purpose and spirit of the provisions of our Constitution and By-Laws is to enable the Association "to advance the science of jurisprudence; to promote the administration of justice; and to maintain the honor and dignity of the profession of the law." As we have heretofore stated in this column, cooperation in the selection of judges affords the Bar Association an excellent opportunity for constructive service to the legal profession.

And such is the motive which prompted the recent, as well as past, plebiscites. We want our Association to be a conservator of the highest character of judiciary. Our duty, here, is three-fold. First and foremost, we must actively urge fit and qualified candidates to stand for

selection; there is no choice of unfit material. Secondly, we must assist, in the manner which appears most practicable and effective, in the process of selection; it is our duty to lend our aid and support both to the electing and appointing power, to the end that the best candidates shall be selected. And, lastly, it behooves the Association to take active measures to sponsor the cause of the candidates which it has determined to be best qualified.

Our Association does not stand alone in its endeavor to aid in judicial selection. For a number of years the American Bar Association has addressed itself to the problem, and at the last annual meeting in Detroit a recommendation was adopted to the effect that State and local bar associations should provide for a standing Committee on Judicial Selection for this purpose. The American Bar Association is devoting its efforts primarily to effect uniformity of action by the local Associations.

There will be twenty-four judges for the Municipal Court. Six city judges and eight township justices will be automatically elevated to the Municipal Court Bench; ten judges will be appointed by the Governor of the State.

At considerable expense of time and money, the Association has completed two plebiscites to ascertain the will of its members with reference to the candidates for these ten judgeships. While the Association can officially endorse only the one candidate, Mr. Rabin Schmidt, who polled a majority of the votes cast, nevertheless, complete reports of both plebiscites will be furnished to the Governor for his consideration. We believe that this expression of the members of the Association as to the relative qualifications of the candidates will better enable the Governor to select the best candidates for these important judicial posts.

## JUDICIAL SELECTION

(Continued from page 1)

for R. McLucas and John L. Fleming were sent to the Governor, they being the men who received the highest vote on the respective lists. Thomas O. Toland, who received the highest vote on the city list and Edwin F. Hahn and Victor R. McLucas who stood second and third respectively on the county list were appointed.

In 1922 one justice for the District Court of Appeal, six judges for the Superior Court, six justices of the Peace of Los Angeles Township and five Justices of the Peace of Los Angeles City (Police Court) were elected; and in accordance with what had now become the established custom of the Bar Association a ballot was prepared and mailed to all practicing lawyers in the County, containing the names of candidates for the respective offices. In every case the incumbent was endorsed by a majority vote. Twenty-one hundred thirty-nine ballots were mailed and thirteen hundred and forty-six were received and counted. Publicly was given to the result of the ballot, but no campaign of any kind was conducted by the Bar Association for any candidate. On the whole it cannot be said that the result of this ballot was an unqualified success from the standpoint of the Bar Association, at least. So far as the District Court of Appeal was concerned, both candidates were capable men and the question was really one of personal preference. On the vote for Superior Court judges, six incumbents were endorsed, of whom four judges: McLucas, Hahn, J. P. Wood and Sumnerfield were elected at the final election. Judges Toland and West who received the endorsement of the Bar were defeated, Elliott Craig and William C. Doran being elected in their places. As was the case of the District Court of Appeal, this contest was between men, all of whom were qualified. But the same cannot be said with equal assurance concerning all candidates for the Justices of Peace and Police Judges. I am of the opinion that it was a mistake to call upon lawyers all over the County to vote for candidates for Police Judges in the City of Los Angeles and Justices of the Peace of Los Angeles Township without, at the same time, giving them some information as to the qualifications of the respective candidates.

Analysis of the returns on the 1922 plebiscite convinced the trustees that in future the voting should be limited to members of the Association and that the members were entitled to a biographical sketch of each candidate to enable them to vote more intelligently on such as they did not personally know.

By the new by-laws of the Association adopted in 1923 a Committee on Judiciary was created to consist of nine members and to this committee was assigned the conduct of all elections or ballotings conducted by the Association, for the purpose of de-

termining its choice for candidates for judges or other public officials, "which elections or ballotings shall be conducted in accordance with such rules and regulations therefor as may be provided for by the Board of Trustees; provided, however, that the association or the Board of Trustees may delegate to a special committee to be appointed by the President the conduct of any such election or balloting, and provided further that the Board of Trustees may by vote of two-thirds of its members, and after hearing thereon duly had, omit from the list of candidates to be voted upon by the members of the association the name of any candidate deemed unqualified by reason of conduct unbecoming a judicial officer or attorney at law, or for other grave cause. No candidate shall be endorsed for office except by a majority of the votes passed in the taking of which the entire membership be given an opportunity to vote."

In accordance with the new by-laws a ballot was taken in 1924 to determine the choice of the association for twelve judges of the Superior Court for the long term, and one for the short term. Seven hundred thirty-eight ballots were received and counted. This and a subsequent ballot taken in an attempt to complete the ticket of the Bar Association or rather to obtain, if possible, a majority vote in favor of thirteen candidates for the long term (Judge Burks having died after the first ballot was taken thereby making thirteen vacancies instead of twelve) resulted in the endorsement of the eleven incumbent judges for the long term and of Judge Holzner, incumbent, for the unexpired term or Judge Sherk. A ballot was also taken this year on the unexpired term of Judge Hewitt but this ballot did not result in any endorsement. All candidates endorsed by the association were elected. It cannot be doubted that if the association had endorsed a full ticket that all of its candidates would have been elected, but as there were two places for the long term and one for the short term for which the association endorsed no candidate and as the association made a campaign only for the candidates which it did endorse, there were two judges elected for the long term and one for the short term who received no assistance from the Association during the campaign. This was the first year in which the association had gone further than merely to announce the result of its plebiscite, so called.

I have given you these statistics thinking that perhaps the members of the association might like to analyze for themselves and have in permanent form a brief resume of the work of the association thus far with the reference to the selection of judges. I think, however, that all who have been active in this work will agree that the association has not, as yet, fully met the requirements of its position in this field, and that in the future it should not only endorse candidates, but should make an active cam-

paign for them. It is also, in my judgment, not only the province, but the duty of the association to make an active campaign against any candidate who may be wholly unfit for the position.

In conclusion, permit me to call the attention of those members of the association who were not present at the November meeting to the resolution which was then adopted and which provides that a plebiscite be taken to determine which of the incumbent judges of the Superior Court, whose terms expire with the year 1926 shall be invited to stand for re-election and that all who receive a majority vote shall be so invited with the understanding that the association will actively undertake to make the campaign for them, and that as to any who may not receive such majority vote that the association take another plebiscite (after the names of candidates have been made public), to fill out the Association's ticket.

Sincerely yours,  
CIVIL R. CRUMP.

## A RESOLUTION

RESOLVED: That the Board of Trustees, of the Los Angeles Bar Association, express to the Judges of the Superior Court of Los Angeles County, the Justices of the Peace of Los Angeles Township and the Police Judges of Los Angeles City, the impropriety of allowing photographs to be taken in the courtroom, particularly photographs of a Judge or Judicial Officer grouped with a litigant or witness in a pending proceeding. Reproduction of such photographs in the public press has, in the opinion of the Board of Trustees, a distinctly demoralizing effect, and it does not conform to the dignity of the judicial officer, nor does it aid the Bar Association in maintaining the respect of the courts, which is the prime essential in the administration of justice.

December 15, 1925.  
Trustees of the Los Angeles Bar Association, Los Angeles, California.  
Gentlemen:—

On behalf of the members of the Special Committee, appointed by President Mott, to canvass the ballots cast by the members of the Association in the recent vote on candidates for appointment to the Municipal Court of Los Angeles, the following report is made of the vote:

Copies of the ballot heretofore attached were mailed to 1699 members of the Association on Wednesday, December 9th, 1925. At the conclusion of the ballot at 5:00 p. m. on Tuesday, December 15th, 1925, the 1013 ballots received by the Secretary up to the time of the closing of the vote, were counted at the office of the Secretary, 687 I. W. Hellman Building, at 7:00 p. m. The result of the vote was as follows:

Total ballots mailed	1699
Total ballots received	1013
Ballots rejected by committee	19
Total ballots counted	994

Necessary for majority ....	498	Committee who undertook the arduous task of counting the ballots:	30. Maurice C. Sparling ...	149
Rubin S. Schmidt .....	537	Walter L. Burke, Chas. L. Nichols,	31. Eugene T. McGannu ....	138
John J. Hill, Jr. ....	348	Joseph Smith, E. Neal Ames, J. Calvin Brown, Marion T. Betty, Kimball		
Hugh L. Dickson .....	321	Fletcher, Paul E. Younklin, Roger S.		
Wm. J. Variel .....	316	Page, J. L. Elkins and Herman		
Myron Westover .....	284	Mohr.		
John Beardsley .....	272	Each of the remaining candidates		
Wm. T. Kendrick, Jr. ....	259	whose names appear on the ballot		
H. S. G. McCartney .....	257	received less than 50 votes.		
Chas. E. Haas .....	243	Respectfully submitted,		
Edward Judson Brown .....	200	R. H. VARIEL, Jr.		
Walter F. McEntire .....	194	Secretary.		
Henry N. James .....	192	Memo: Count of ballots started		
Carl A. Stutsman .....	175	at 7:00 p. m. Tuesday, December		
Henry M. Willis .....	175	15th, 1925, and was completed at		
Elias V. Rosenkranz .....	174	11:30 p. m. that night.		
C. W. Pendleton .....	158			
Frederick H. Vercoe .....	158			
Douglas L. Edmonds .....	147			
M. J. Finkenstein .....	145			
Ernest M. Torchia .....	142			
Forrest F. Murray .....	139			
Bonner Richardson .....	137			
Harold Ide Cruzan .....	126			
Daily S. Stafford .....	122			
Wm. M. Morse, Jr. ....	121			
W. Maxwell Burke .....	118			
Walter F. Keen .....	118			
John J. Craig .....	115			
Eugene T. McGann .....	109			
Maurice C. Sparling .....	107			
Wm. T. Blakeley .....	104			
Samuel D. Well .....	102			
E. Marion Crawford .....	93			
Chas. L. Bogue .....	92			
Fred J. Spring .....	87			
Earl D. Killion .....	84			
John F. Burton .....	82			
Philip Cohen .....	82			
Fairfax Cosby .....	81			
Howard R. Hinshaw .....	81			
John H. Alvord .....	80			
R. Morgan Galbreth .....	80			
John W. Luter .....	80			
Vere Radir Norton .....	80			
Arthur Crum .....	75			
F. W. Fellows .....	75			
Alice T. Magill .....	75			
H. A. I. Wolch .....	75			
Walter L. Mann .....	73			
G. F. McCulloch .....	72			
Morris M. Ferguson .....	71			
H. C. Lillie .....	71			
Wm. B. Gilroy .....	70			
Burrell D. Neighbors .....	70			
Guy F. Bush .....	69			
Chas. B. McCoy .....	69			
N. B. Nelson .....	68			
Wm. U. Handy .....	67			
C. L. Welsh .....	67			
L. C. Spiess, Jr. ....	64			
James W. Bell .....	59			
Walter Eden .....	59			
George S. Hupp .....	59			
Wm. H. Jamison .....	58			
R. T. Lightfoot .....	56			
Samuel M. Garroway .....	55			
Clifford L. Thomas .....	54			
Elliott H. Barrett .....	50			

The names of the following persons, whose applications for appointment were on file with the Governor, were not voted upon for the reason that same were not received in time to be placed on the ballot: W. S. Allen, John C. Campbell, J. C. Craig, Lewis W. Kauffman, J. George Ohanesian, Walter W. Rennie, Zebulon B. Stuart, Raymond I. Turney and Dudley S. Valentine.

The Association is indebted to the following members of the Special

Committee who undertook the arduous task of counting the ballots:

Walter L. Burke, Chas. L. Nichols, Joseph Smith, E. Neal Ames, J. Calvin Brown, Marion T. Betty, Kimball Fletcher, Paul E. Younklin, Roger S. Page, J. L. Elkins and Herman Mohr.

Each of the remaining candidates whose names appear on the ballot received less than 50 votes.

Respectfully submitted,

R. H. VARIEL, Jr.

Secretary.

Memo: Count of ballots started at 7:00 p. m. Tuesday, December 15th, 1925, and was completed at 11:30 p. m. that night.

## SECOND BALLOT OF THE LOS ANGELES BAR ASSOCIATION ON CANDIDATES FOR APPOINTMENT TO THE MUNICIPAL COURT OF LOS ANGELES

The second ballot of the Los Angeles Bar Association on candidates for appointment to the Municipal Court of Los Angeles was conducted in the following manner:

1728 ballots were mailed to the members of the Association by Secretary Variel. Each ballot contained thirty-one names, being those candidates who received one hundred votes, or more in the original ballot of the Association. The names were arranged alphabetically on the ballot and each member was requested to vote for not less than eight candidates and not more than sixteen candidates.

890 ballots were received from the members of the Association, of which twelve were discarded for the reason that they did not comply with the requirements of the election. Of the total vote of 878, 440 votes were required to constitute a majority.

The following is a list of candidates, with the number of ballots each received set opposite his name:

1. John J. Hill, Jr. ....	439
2. Wm. J. Variel .....	417
3. Myron Westover .....	388
4. Hugh L. Dickson .....	382
5. John Beardsley .....	371
6. Charles E. Haas .....	360
7. H. G. S. McCartney .....	345
8. Wm. T. Kendrick, Jr. ....	319
9. Henry M. Willis .....	298
10. Edward Judson Brown .....	269
11. Henry N. James .....	268
12. Elias V. Rosenkranz .....	264
13. Walter I. McEntyre .....	257
14. Carl A. Stutsman .....	251
15. Harold Ide Cruzan .....	231
16. Frederick H. Vercoe .....	217
17. C. W. Pendleton .....	215
18. M. J. Finkenstein .....	206
19. Douglas L. Edmonds .....	205
20. Wm. T. Blakeley .....	202
21. Ernest W. Torchia .....	197
22. Daily S. Stafford .....	193
23. John J. Craig .....	188
24. Forrest F. Murray .....	184
25. Wm. M. Morse, Jr. ....	183
26. Bonner Richardson .....	181
27. W. Maxwell Burke .....	181
28. Walter F. Keen .....	169
29. Samuel Well .....	162

30. Maurice C. Sparling ...	149
31. Eugene T. McGannu ....	138

The ballots were counted in the office of Secretary Variel on Tuesday December 29, 1925, at the hour of 7 p. m., the count being completed at 10 p. m.

Wishing You

a

Happy

and Prosperous

1926

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